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The White Horse Press

Full citation: O'Connor, Martin, "Valuing Fish in Aotearoa: The Treaty, the Market, and the Intrinsic Value of the Trout." *Environmental Values* 3, no. 3, (1994): 245-265. http://www.environmentandsociety.org/node/5519

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Valuing Fish in Aotearoa: The Treaty, the Market, and the Intrinsic Value of the Trout*

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ABSTRACT: New Zealand fisheries management reforms are being conducted in terms of 'balancing' of interests and reconciliation of conflicting claims over ownership and use. Fisheries legislation seeks efficient levels of fishing effort, while establishing 'environmental bottom lines' for stock conservation; resource management law requires, alongside efficiency of resource use, consideration for species diversity and 'the intrinsic values of ecosystems' (notably the 'protection of the habitat of trout and salmon'); and the Treaty of Waitangi safeguards customary practices and life-support requirements (including fisheries) for the Maori people. This paper analyses these antinomies in terms of contrasting ethical positions – utilitarian (self-interested, instrumental) rationality, versus an ethic of reciprocal hospitality – and shows how fisheries management policies can be formulated on this basis.

KEYWORDS: Aotearoa, fisheries legislation, habitat protection, hospitality, Treaty of Waitangi

You can hardly see him
for nature's camouflage; trout,
magnificent trout, darkly
speckled, toffee brown.
....
he floats upward,
pouts, takes the fly
from the puckered surface.
Look out, trout.[1]

1. THE ETHICS OF EATING FISH

Who owns New Zealand's fish? Who should get to eat the fish? What is the right way to eat New Zealand fish? How do we, how should we, relate to fish? For

Environmental Values **3** (1994): 245-65
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employees of major ocean commercial fishing companies, who may travel thousands of miles and remain 'at sea' far from home for weeks or months on end, it is perhaps a way of life – or anyway a job and means of survival. But purse-seining by the tonne is a fairly impersonal thing, and the commercial pressures reduce the fish to their dollar value and paste. Or, as advertised on TV, perhaps fishing is a sport? Recently on New Zealand television, a new 'lure' was being promoted (with all-American voice-over) for fly-fishing, as one that seeks the fish out, penetrates the depths, 'excites the fish', seduces: they cannot resist. Instrumentalism; seduction – these are two variations on a libidinal theme of control, the user and the used.

Is there a *right* way to relate to New Zealand's fish? The question of right relationship is most often raised in a moral or religious context – e.g., being at peace with oneself or with God (or the gods), or with other humans or with other living beings. It is, nonetheless, at the heart of the environmental crisis: the symbolic and moral dimensions of right relationship are at least as important as the material ones of the 'balances' of stocks and flows within and between diverse living systems. This paper uses the problematic of valuing fish in Aotearoa/New Zealand[2] – which, as it turns out, is inter-cultural as well as ecological and inter-generational – as a metaphor and paradigm for exploring the wider problem of 'environmental values'. In resolution, both practical and symbolic, we will argue for an ethic (and a management practice) of hospitality – premised on a notion of reciprocity which in Maori is *utu,* the law of a corresponding (and proper) return.

2. SUSTAINING FISH IN AOTEAROA: TIAKINA NGA TAONGA A TANGAROA[3]

Even without considering the possible 'existence rights' of paua (abalone), orange roughy, and whales (and thus their own enjoyments of life rather than a fate of being used), are there enough on the planet to go around? This is emblematic of the problem of natural resource and environmental scarcity today. New Zealand is a 'big' South Pacific nation in terms of its 200-mile Exclusive Economic Zone, an oval about 500 miles wide, and stretching nearly 1500 miles from north to south. Pressures are increasing on 'our' fisheries from both local and (more especially) off-shore interests. The question of sound management principles for coastal and deep-sea fisheries has been prominent throughout the 1980s, and the legal framework for fisheries management has been under almost continuous review. While the relevant questions of control date back to the years before the 1840 Treaty of Waitangi – which (as will shortly be discussed) arguably placed the fish under Maori tribal jurisdiction – it is convenient to start with the more recent past.

Current New Zealand fisheries management reforms are being conducted in

terms of a 'balancing of interests', a reconciliation of conflicting claims over ownership and use. The debates around these reforms reflect a striking antinomy of the country's resource and environmental law. On the one hand, the New Zealand economy is becoming 'more market', opened up to global supply and demand forces, and subjected to the icons of efficiency and self-interest. On the other hand, the nation is avowedly bicultural and respectful of the intrinsic value of the other parties present and future living on this planet. Proposed new fisheries legislation seeks simultaneously to ensure efficient levels of fishing effort, and to establish 'environmental bottom lines' (EBLs) that would ensure conservation of threatened species stocks.

The reconciliations requiring to be effected are manifold: present values (for food or profits) versus future existence; commercial versus recreational versus Maori 'traditional' users today; offshore versus local control; market versus intrinsic values. These various oppositions are symptomatic of contradictory propositions about what makes a just and decent society.

In 1983-1986 a property rights system of individual transferable quotas (ITQs) was introduced, designed along textbook lines for control of an 'open access' resource. Widely represented as a pioneering effort to put economic theory into practice, the idea was to ensure simultaneously the twin goals of ecologically sustainable catch levels and economically efficient levels of fishing effort. Though fine-tuned several times, this scheme has not prevented overfishing – due in part to frauds and piracies both local and off-shore, and in part to setting the quotas too high for sustainability anyway.[4] Several commercially important species are now seriously 'at risk'. At the same time, the introduction of the ITQ regime aggravated existing tensions between Maori and the Crown over control of resources, as Maori made up a large fraction of the small and 'part-time' operators who – in the name of tidying up the industry and reducing fishing effort – were squeezed out of then-existing fishing activity.

In August 1991, a Fisheries Task Force was appointed by the Minister of Fisheries (at this time the Hon. Doug Kidd) to look at fisheries management questions and suggest appropriate reforms to the quota management system. The major focus of attention, *prima facie*, was the sustainability of fishing activity, and the conservation of the fish stocks. The Task Force in their April 1992 report to the Minister of Fisheries (Fisheries Task Force 1992:15) recommended that the guiding principle for future law should be the 'environmental bottom line' (EBL), meaning that:

> Marine fishery resources shall be sustainably managed in a manner [such that ....] the size of harvested populations should not fall to levels below those that ensure greatest net annual increment....

Now that the commercial fishing catch rights are capitalised, the battle over quota actually amounts to a battle over 'assets' valued in hundreds of millions of dollars. The interests at stake, in addition to the fish themselves, fall into three

main categories: (i) 'species protection' meaning, in particular, some species of sea mammals and birds whose survival is 'considered under threat from human activities' including present and foreseeable future fishing practices; (ii) integrity of ecosystems as expressed by the identified 'need to maintain ecological relationships between harvested, dependent, and related populations of marine living resources';[5] and (iii) the dependent and related human populations who are making use of the fish species.

Human users are, in turn, divided three ways: Maori, commercial, and recreational.[6] A key question for the Fisheries Task Force was to consider how the catch rights should be apportioned between the potential user groups. Under their proposals for a new Fisheries Act, a 'balance' is to be preserved. The ideal being promulgated seems to be one of a peaceful coexistence of all of Maori, commercial, and recreational activities subject to an across-the-board *duty to conserve*: the obligation of all users to pass on a viable stock to the future.

How are all these 'interests' going to be balanced out? Not through the marketplace, that is for sure. Markets value according to price; and by the same logic markets devalue anything that has no price. In these terms, we can set the question of the 'market value' of fish against considerations of: (i) respect of cultural difference; (ii) ecological 'intrinsic value'; and (iii) obligations to future generations. It is a question, in each case, of the disposition of human beings in 'modern' (industrial, market-dominated) societies today, towards *other* existing or potentially existing communities and life forms – life forms exterminated or put at risk by so-called economic, social, and technological progress. The question is: What is entailed by respect and recognition of the *other*, be this an other species, an other culture, or another generation?

Whether or not viable fish stock levels will indeed be maintained over time, remains an open question. Scientific appraisals by Ministry of Agriculture and Fisheries officers show intense concern that species TACs (total allowable catch levels) are, in several important cases, currently set well above probably sustainable catch levels (see, for example, data presented in Annala 1993). As regards obligations to Maori, the Task Force Report asserted that 'Maori fishing rights are guaranteed under the Treaty of Waitangi', but went on to note that the extent of these rights was not clear, as the matter 'is the subject of ongoing negotiations....' This was monumental understatement. When that was written in April 1992, questionmarks hung over the ownership, entitlement to, and practical control of most of the nation's commercial and non-commercial fisheries.

In fact the Task Force sought – somewhat pre-emptively – to place its own construction on the rights issue, through proposing a sharp segregation between Maori 'traditional' fishing rights and commercial catch. Moreover, they let it be understood that the Maori 'traditional fishing rights' pertained only to small-scale and tightly localised activities. In this vein, they proposed (Fisheries Task Force 1992: vii and 5-10) that a priority recognition to Maori should be granted in the forms of: (i) exclusive control over small mahinga kaimoana (that is,

seafood gathering and coastal fishing) areas; and (ii) a central management role in somewhat larger taiapure zones (areas of traditional tribal interest).

Seemingly a clear recognition of traditional Maori values, this was a sword that cut two ways. It allowed the inference to be drawn that the claims by Maori that could be justified by reference to 'tradition' are only these small ones; hence that the questions about fishing on a 'commercial scale' have no basis in tradition. This is questionable on several counts. First, the logic of the traditional/ commercial distinction is not clear, since current commercial (and 'individual' recreational) fishing activity is nothing other than an outgrowth of traditional Pakeha (colonist non-Polynesian)[7] fishing activity under conditions of privilege created for them under the 'protection' of the British Crown – privileges which, by common argument, were established in violation of the precepts of the Treaty of Waitangi. Second, the historical record – once scrupulously investigated, as the Waitangi Tribunal (1988, 1992) has sought to do – makes plain that prior to 1840 the Maori had a highly developed and controlled fishery activity over much of the coast of New Zealand, including some deep-water fishing.[8]

What, therefore, does (or might) it mean to uphold the guarantees of the 'principles of the Treaty of Waitangi'? The document signed in 1840 was written in both Maori (as *Te Tiriti o Waitangi*) and in English, and was signed by representatives of the British Crown and by a majority (but not all) of the paramount chiefs of the Maori tribes throughout New Zealand. The Treaty marked the formal establishment of the British Crown as sovereign over the country. It simultaneously stated formal recognition by the British Crown of the authority (tino rangatiratanga) of the indigenous Maori chiefs in the exercise of their responsibilities for the welfare of their people and control of tribal land and other possessions. The antinomy of the *two* authorities thus recognised has never adequately been resolved.

The Treaty contains three sections, which may conveniently be described as the *kawanatanga* article, the *rangatiratanga* article, and the *tikanga* article. Article I is an agreement between two sovereign powers, which in the Maori version transfers kawanatanga from the Maori to the British Crown. In the English version, the Maori rangatira (chiefs) cede to the British Crown 'absolutely and without reservation all the rights and powers of sovereignty' which they at that time exercised and possessed. However, the Maori term furnished as the equivalent of 'sovereignty' in the Maori version, kawanatanga, has a meaning along the lines of administrative governance. So according kawanatanga to the British Crown in no way diminished the authority and standing (the mana Maori) of the chiefs.

Article II confirms the status of Maori tribal authority and honours the integrity of Maori society. The Maori text states the recognition of 'tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa', which in the English version is rendered: 'full exclusive and undisturbed possession of their lands and estates, forests, fisheries and other properties....'. The term taonga, rendered in English as properties, has a rich and extensive meaning: just

about anything precious, but usually having a social significance. For example, the Maori language (te reo Maori) is a taonga; so too are tribal heirlooms (e.g. ornaments, weapons, cloaks), tools of work (taonga mahi), and the resources of the land and sea.

Article III in the English text extends 'to the Natives of New Zealand' the protection of the British Crown, and 'imparts to them all the Rights and Privileges of British subjects'. The Maori text, on the other hand, employs the term tikanga at the place the English proclaims 'rights', and tikanga actually refers to something like the normal and proper conduct of everyday life. So the two texts diverge: the Maori version of Article III reaffirms Maori society and its prestige (mana); whereas the English version accords to the Maori people the same civic status under the British Crown as held by people of British origins.

These discrepancies permit endless debates, and allow much space for bad faith. Nonetheless it is fairly clear that, when the Treaty of Waitangi's Article II guaranteed to Maori the 'full and undisturbed possession of [.... inter alia] their fisheries', this would have been understood by Maori to mean the 'right' – more exactly affirmation and enhancement of the mana – to continue an extensive activity for subsistence and inter-tribal trade. It is therefore not surprising that Maori have, repeatedly, asserted tino rangatiratanga (and thus, full management authority) over the entirety of the New Zealand fisheries 'resource', and made clear the opinion that the Crown is not empowered to allocate quota as if 'no one' owned it.[9]

This view has been plainly expressed in claims made to the courts, and, more especially, to the Waitangi Tribunal. This Tribunal, first constituted in 1975 and given widened powers since 1985, is empowered to investigate claims relating to contemporary events and also retrospectively back to 1840 of grievance by Maori relating to non-fulfillment of the Treaty 'guarantees', and to recommend to the Crown appropriate measures of redress. Two large fisheries claims have so far been considered: the first, lodged in 1986, by the north of the North Island Muriwhenua tribes; and the second, also lodged in 1986 though not reported upon until much later, by the South Island Ngai Tahu tribe. The Muriwhenua claim asserted, for northern Maori tribes, fishing rights over a large portion of northern New Zealand coastal and deep sea waters; the Ngai Tahu claim asserted rights over most of the southern coasts and deep waters. It is not a question here of what the law of today might say: the law comes *after* the Treaty. As lawyer Paul Temm (1990: 95) has argued,

> There is room, perhaps, for the view that Parliament has its authority by virtue of British sovereignty, and British sovereignty has its authority [in New Zealand] by virtue of the Treaty of Waitangi.

The basic argument brought by Maori to the Crown today, is that true recognition of tino rangatiratanga and of Maori taonga (wealth and things held

precious) would require the Crown, in a spirit of reciprocity, (1) to relinquish its monopoly status in the legislative and resource control domains as regards Maori interests; (2) to provide justice in the form of return of, or compensation for, lands and other resources improperly appropriated by the Crown or its agents in the past; (3) to enter actively into the spirit and substance of the agreement to support and honour the integrity of Maori society. The Treaty in fact has its main power as a symbol of the unresolved demand for reciprocity.[10]

The Waitangi Tribunal in its first major statement on the fisheries, the Interim Report on the Muriwhenua Claim (Waitangi Tribunal 1988), concluded that Maori fisheries on a large scale were indeed guaranteed under the Treaty. Shortly after the Tribunal's report, the High Court also found justice in the Maori claims, and instructed that the Crown should negotiate with Maori on the issue. Maori negotiators proposed at this time, that 50% of commercial fishing quota be vested in the Crown, the rest to be placed in the hands of Maori, the 'original' owners. This was portrayed as *a granting by Maori to the Crown* of an equal share, reflecting in a symbolic way the Treaty partnership ideal.

Negotiations in 1988-89 between government, commercial fishing industry interests, and Maori proved inconclusive. An arbitrary and interim resolution was imposed by the Crown, in the form of the Maori Fisheries Act 1989. This made provision for 10% of fishing quota to be passed over to Maori interests over the next few years, and for a few millions of dollars funding for a Maori Fisheries Commission to facilitate entry of Maori into fishing. There was a fairly brutal irony in this 10% transfer, as the introduction of the ITQ system in 1983-1986 expunging of 'part-timers' had undoubtedly excluded small-scale Maori (as well as many non-Maori) fishing operators in greater magnitudes than this.

Not surprisingly this left matters far from settled. Negotiations continued, partly behind the scenes through into 1992, when a wild card was thrown into the game. Early in 1992, a major public company, Sealord Products Ltd, New Zealand's largest fishing company which held some 25% in value of the total commercial fishing quota, was put up for sale. In May 1992, it was announced that the Minister of Fisheries (Hon. Doug Kidd) had approved up to 40% foreign ownership of Sealord, a relaxation of the prevailing rules on foreign control. Matiu Rata, former Member of Parliament, leader of the Maori activist Mana Motuhake political party, and prominent Maori fisheries claim negotiator, set the scene for what came next, by expressing pious surprise at the decision, coming 'at a time when the Crown has apparently exhausted its ability to deliver quota to Maoris under the treaty negotiations.'[11]

Intense negotiations followed. In late August 1992, two weeks after the release of the Ngai Tahu Sea Fisheries Report (Waitangi Tribunal 1992), representatives of the Crown and Maori announced a Memorandum of Understanding by which the Crown would provide Maori with $150 million (about US$80 million) as capital to assist purchase of Sealord jointly with Brierley

Investments; would allocate 20% of all new commercial quota (relating to species not yet brought under the ITQ regime) to the Maori Fisheries Commission for distribution to iwi (tribal groups); and would provide for Maori participation in statutary management of non-commercial fisheries. In return, Maori would agree that the deal would 'satisfy and extinguish' all claims relating to commercial fishing rights, whether with reference to the Treaty or otherwise.

With minor modifications, the Sealord Deal went through, ratified by the passing of the Treaty of Waitangi (Fisheries Claims) Settlement Act, on 14 December 1992.[12] This has, in practical terms, given the prospect of effective Maori control, within a few years, of maybe half of the total commercial fishing quota within New Zealand's 200-mile exclusive economic zone. But the deal has reshuffled rather than resolved the tensions over fish; many new ambiguities arise. The Maori fisheries negotiators (so-designated by the Crown) in fact encountered opposition from many Maori, especially relating to the extinguishment clause. First, it was argued that there could – or at least, should – be no extinguishment of the rights guaranteed under the Treaty: rather the Deal ought to have been portrayed as a tangible and appropriate gesture in affirming these rights. The Treaty is a living covenant, not a business deal. Second, it was asserted by many Maori that the 'negotiators' had no mandate from the people at a tribal (iwi) or pan-tribal level to make such a deal (see Walker 1993). Third, it was felt that the Sealord Deal was prejudicial to Maori non-commercial fishing activity, because of inadequate recognition of the extent and importance of 'subsistence' fishing, and practical control over local fishing areas. In fact, acknowledgement of Maori entitlement to harvest fish for local food purposes remains tenuous under present law, and the real social and economic importance of this 'informal' activity is not widely appreciated by policy-makers nor by New Zealanders at large.

3. INTRINSIC VALUE, THE TREATY, AND THE TROUT

The non-resolution of these (and other) matters reflects underlying differences of opinion about what constitutes a proper 'honouring' of the Treaty obligation. These ambiguities surface repeatedly amongst the many reconciliations requiring to be effected in New Zealand's resource and environmental law. Most notably, this is made plain in the Resource Management Act (henceforth *RMA*), a 382-page document passed into law in 1991, superseding all previous environmental management legislation. It seeks, putatively, to facilitate an efficient use of the nation's waters, land, and coasts, within an overarching purpose of ensuring the 'sustainable use and management' of New Zealand's physical and natural resources. As such, it enshrines, relative to present-day economic activity, three problematical motifs: (i) the interests of the Maori in accordance with 'the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)'; (ii)

'intrinsic values of ecosystems', and by implication of species; and (iii) 'the reasonably foreseeable needs of future generations'.[13]

As regards the interests of Maori, in relation to their land, traditions, wealth (taonga) and culture, the *RMA* in Section 8 states a duty that:

> In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

This is backed up in several other clauses of the Act. For example, under Section 6, specifying matters of national importance, 'the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga' appears on a par with, inter alia, 'outstanding natural features and landscapes' and 'areas of significant indigenous vegetation and significant habitats of indigenous fauna' as an attribute of national importance to be protected and provided for. Section 7 then lists as further matters which persons exercising powers under the Act 'shall have particular regard to':

(a) Kaitiakitanga:

(b) The efficient use and development of natural and physical resources:

(c) The maintenance and enhancement of amenity values:

(d) Intrinsic values of ecosystems:

(e) Recognition and protection of the heritage values of sites, buildings, places, or areas:

(f) Maintenance and enhancement of the quality of the environment:

(g) Any finite characteristics of natural and physical resources:

(h) The protection of the habitat of trout and salmon.

The term kaitiakitanga comes from Maori tradition, and in the Act is defined (in Section 2) as meaning, 'the exercise of guardianship' connoting 'the ethic of stewardship based on the nature of the resource itself'. In Maori social context, kaitiakitanga can mean any sort of looking after – for example of a child within a household, or of a person within a community, or the vitality of a fishery or of a tribal group.[14] This relates back to the guarding of the mauri (life-force) of a person or living entity. In claiming an ownership of the fisheries 'resource', Maori are therefore also making – both implicitly and explicitly – powerful statements about the principles and objectives according to which it might and should or might be managed.

What does this statement amount to? I will pursue this question via a short digression on the theme of intrinsic value. This is a term that has been given many

meanings. In the Resource Management Act the intrinsic value of ecosystems is given recognition, this being defined (in Section 2) as deriving from:

> (a) Their biological and genetic diversity; and (b) The essential characteristics that determine an ecosystem's integrity, form, functioning, and resilience.

By stretching a semantic point, we might perhaps propose that the 'integrity' includes human moral integrity. Karen Cronin, a Ministry for the Environment officer involved in the law reform, thus suggested (Cronin 1988) that among other things the term may signify:

> Respect for life processes and other life forms – other species have a right to exist regardless of the interest of human beings.... We deny a basic aspect of ourselves by destroying other forms of life.

Now consider the duty 7(h) of the *RMA*, to act with regard to 'protection of the habitat of trout and salmon'. One can rightly wonder by what obscure contingencies of lobbying in corridors of power, these two species of fish came to have this hallowed status of being mentioned by name in the Act? Be that as it may, it is also remarkable how this item encapsulates so perfectly the conservation logic of the Act. Trout and salmon are unique, not least in being a cherished immigrant species (honorary indigenes, we might say) to New Zealand. They are certainly finite, and are an amenity (for recreation) as well as a commercially valuable exploitable resource (food and tourism). Both the habitat and the fish themselves doubtless (and notwithstanding their exoticism) have their own intrinsic value as pertaining to their biological and genetic diversity and their ecosystem's integrity. Ipso facto they ought to be managed in recognition of this unique value and character; and this would mean kaitiakitanga.

So, is it an appropriate exercise of kaitiakitanga to eat the trout? Well why not! But if so, who should eat the trout? Is it respectful of intrinsic value to eat trout?[15] How (and by whom) should they be caught? What about the snapper (taamure), the paua (abalone), the koura (crayfish), toheroa (clams), and orange roughy? Why should we not use them up if the international market price is right?

What is intrinsic value, anyway? Is it, as the definition in the *RMA* seems to make it, an actually existing property of the objects and life forms in question, for example the living habitat of the toheroa or the trout? Or it is better taken as a matter of ethical stance or disposition – that is, an affirmation or assertion of worth or standing of some objectively existing being? Without delving into the philosophical arguments, the latter is the approach that I take here. Assertion of intrinsic value as an explicit matter of ethical stance, may, I propose, be understood as an attempt to articulate a non-utilitarian, non-instrumental relationship of human beings to other existing life and its potentialities. That is, it may be understood as meaning an attitude or ethic of hospitality – like that of host and guests at a dinner party, or lovers (or, in other circumstances, antagonists in a duel).

4. HOSPITALITY

In the utilitarian vision, the plants and viruses, trout, toheroa, whales and other animals become means to an end: simple victims of, or obstacles to, our exercise of power. Yet this shames us, because of the meanness of spirit that it involves. If 'intrinsic value' means anything non-utilitarian, it is more like a uncalculated generosity. This planet hosts us; and we are hosts to each other on it. This means a sort of uncalculated (though not necessarily imprudent) openness. Whenever hospitality is given and received (for example at a dinner party), each one is simultaneously guest and host, given over to the other and to what they bring into the world for you. Moreover, the visitor, when s/he comes, implies the presence of the unknown; and the unknown always carries with it two things: the possibility of love, and the risk of death.[16] Correspondingly, the ultimate gesture of hospitality (and proof of love) may be to give one's own life for others or for other life.

This is death – the biological fact and the subjectively ever-present prospect – understood as something given and received, just as life is given and received. So intrinsic value involves not just affirmation of life but also an openness to death and to the viccissitudes of life together. To assert 'intrinsic value' of another life or another culture would mean abandonment of a utilitarian meanness of calculation in favour of the possibilities of life shared together – to seek to reciprocate this hospitality that we already enjoy.[17] In place of the instrumental notion of contract in the 'marketplace transaction', is the idea of an enduring reciprocation as between guests.

I yearned to return
But your banquet
Was bullets.
The blood
The shame
Cannot be
Salved
In wine.[18]

Arguably too, this is what it should mean to 'honour the Treaty' as a compact of friendship and solidarity between Maori and Pakeha in New Zealand. Maybe we could speak, appropriately, of affirming the intrinsic value of the Maori people and habitat? Life in support of each other – not an abject competitive individualism in the face of 'market forces'.

Combining together these strands, intrinsic value also means a sense of kinship felt with non-human life. So, as the Maori put it, the fish (as children of Tangaroa, god of the sea) are 'cousins' to humans (as children of Tane, god of the forest, of life on the land).[19] We are all whanaungatanga – linked together as

members of the extended family (the whanaunga). A kinship binds us together with the fish; as does in another way the duty of kaitiakitanga, guardianship and proper care for the life in one's hands; and as does maanakitanga, the obligations of the host toward guests.

Lewis Hyde (1983), writing on gift exchange in economic and artistic life, recounts some of the practices of American Indian tribes living on the Pacific Coast of North America. It was the Indian belief, he says, that all animals lived as they themselves lived – in tribes – and that the salmon, in particular, dwelt in a huge lodge beneath the sea. There, the salmon go about in human form while they are at home in their lodge, but once a year they change their bodies into fish bodies, dress themselves in robes of salmon skin, swim to the mouths of the rivers, and voluntarily sacrifice themselves so that their land sisters and brothers have food for the winter. Accordingly (Hyde 1983: 26-27):

> The first fish was treated as if it were a high-ranking chief making a visit from a neighbouring tribe. The priest sprinkled its body with eagle down or red ochre and made a formal speech of welcome, mentioning, as far as politeness permitted, how much the tribe hoped the run would continue and be bountiful. The celebrants then sang the songs that welcome an honoured guest. After the ceremony the priest gave everyone present a piece of the fish to eat. Finally – and this is what makes it clearly a gift cycle – the bones of the first salmon were returned to the sea. The belief was that salmon bones placed back in the water would reassemble once they had washed out to sea; the fish would then revive, return to its home, and revert to its human form. [....] If they were not, the salmon would be offended and might not return the following year with their gift of winter food.

What the Indians demonstrate, in this ritual and its symbolism, is a sense of reciprocity with the salmon, who are regarded like cousins, members of a neighbouring tribe, considered as symbolic equals. And they are eaten with gratitude for the gift received, furnished through the willing death of the other. Moreover, the Indians were right in their fears. When, with the coming of the White Man, the sentiment of reciprocation was lost (overrun by the sentiment of profit), the salmon were quickly fished out. The Maori in Aotearoa/New Zealand have a similar tale. In hunting or fishing activity, the first bird or fish caught is thrown back to its source (forest or sea); this assures continued fecundity, they say (see Best 1929; O'Connor 1991, 1993a). It was predicted by Maori elders in the 1950s that the mauri (life-force) of the Ninety-Mile Beach toheroa (giant clams) would be extinguished by the 'inappropriate' atttitude to their harvesting (Marsden & Henare 1992: 23):

> When the toheroa canneries was built near the Ninety Mile Beach and the elders of the tribe discovered that the toheroa was to be canned and sold, they met to consult together and their opinion was that the Mauri of the toheroa would depart from the Ninety Mile Beach and there would be no toheroa left in about fifteen to twenty years.

> Their predictions both about the departure and the length of time for it to occur proved to be exactly right.

Science or folklore, the result is the same. A utilitarian attitude provokes ruin, collapse. Contrast this with the idea that, by the receipt of a gift from the sea, or from the forest, we recognise their being, we place ourselves in their debt. How is this debt repaid? Not by our becoming food for the kereru (native wood pigeons), trout, or salmon, obviously! Rather by an acknowledgement, translated into ritual and daily practice, of the imperative to place ourselves, individually and collectively, in the service of other life (human and non-human) in our own lives. To kill and eat is thus (or can be) a sacred communion. When I eat you (say a beast), or receive something of value from you (say a friend, or a child, or a parent), I acknowledge receipt of a gift; I acknowledge you a god, or at least a gift from god; I acknowledge a debt; and I acquit that debt only by a gift in return.[20] The Indians could accept the salmon in the spirit of a gift, because they were able to comprehend the possibility of a counter-gift, that is, of a giving of themselves in return, through time, in society and within nature. And this is true more generally. It is only when we accept to give, that we can truly receive – and thus enjoy the company of others. The Maori of old knew this (see O'Connor 1993a); some of them (and some of us) still know this, fortunately.

.... You give little
when you give things
give of yourselves
like trees
that's giving
learn from them
With Earth for Mother
Sky for Father
they hold back nothing![21]

Another myth was created, recently, by an Australian experience. A young Australian swimmer was eaten by a large white pointer shark just off the East Australia coast. He was diving in a wetsuit, and the shark may have thought he was a seal. It was later reported that the shark was very hungry. Is this a scientific fact? I do not have the life history of that particular shark. What is interesting is that the question of the shark's hunger should have been raised in this context. Why hungry? Because, suggested some marine ecologists, there is much less food available these days for sharks, due to the extent of fish stocks depletion by humans. So we have the shocking sensation of tragedy and of our possible 'guilt': perhaps *we* made the shark hungry; did we bring about that young man's death? For the sacrificial victim, and those close to him, the event is a calamity. In the larger symbolic (and also in the ecological) order of things, it is a cruel but

obvious 'justice': it seems only fair that we (humans) should be eaten. This is a myth for our modern day.[22]

5. THE EEZ AND MATAITAI (FOOD GATHERING) RESERVES

There is still the problem of how to 'manage' Aotearoa's fish. Tiakina nga taonga a Tangaroa. The fish are given to us by Tangaroa; that makes us Tangaroa's guests. So how do we show proper protocol, etiquette, appreciation? The Maori, as tangata whenua (people of the land) are the 'natural' kaitiaki for the fish. The Maori, as tangata whenua, are the hosts. The fish and seafood are taonga, they are a part of the people's wealth-in-common; they are offered to guests (this is part of maanakitanga). So an invitation is extended to the tauiwi, those who come from elsewhere, to come in friendship; this friendship was, supposedly, affirmed in the Treaty. There are plenty of fish, let us eat. *Ko maru kai atu, ko maru kai mai, ngohe ngohe.* Giving and receiving, we are rich as each other's guests.[23]

How might this be reconciled with considerations of efficiency and the iron laws of market supply and demand? Not easy, would be the honest answer. Yet with proper care it could be done. In Maori tradition, rangatiratanga is an authority of service; it is the duty of a rangatira to provide for his people. In a related way, the duty of a kaitiaki is to the people, the common wealth, to look after the whanaunga of people and fish. As Hegel would have said (1807: 342-343), 'Just as everything is useful to man, so man is useful too, and his vocation is to make himself a member of the group, of use for the common good and serviceable to all.' The marketplace, domain of 'exchange' par excellence in the modern world, must somehow find its right place, respectful of this collective vocation.

In working out how to do this, we encounter some obvious difficulties, whose resolution may however be envisaged through imaginative interpretation of current law. The Fisheries Act 1983 which provided the entrée for the market-oriented ITQ system, has been amended several times in an effort to make things work and to take account of political-ecologic reality. In 1992, the Treaty of Waitangi (Fisheries Claims) Settlement Act occasioned some amendments, which include the following provision (Fisheries Claims Act 1992, Section 34):

> Recognising and providing for customary food gathering by Maori and the special relationship between tangata whenua and places of importance for customary food gathering (including tauranga ika and mahinga mataitai), to the extent that such food gathering is neither commercial in any way nor for pecuniary gain or trade.

Two things should be noted here. First, there is nothing in this clause (or anywhere in any Act) that actually requires fishing (food gathering) of a 'commercial' nature or for 'pecuniary gain' to take place. Second, there is no limit, other than respect of species and ecosystem bottom lines, placed on the

level that 'customary food gathering' might attain. Taking account of underlying Treaty rights and human common sense, it would thus appear that 'customary' food gathering should take precedence over fishing for pecuniary gain or trade. The latter should properly be permitted only when, and in such ways that, the activity for pecuniary gain does not compromise the well-being of the people. How might this be ensured, taking account of an Outside World hungry for Aotearoa's fish?

The same Section 34 of the Fisheries Claims Act further empowers the Minister of Fisheries 'to declare any part of New Zealand fisheries to be a mataitai reserve', having regard for local community interests, the sustainable management of the fish and associated marine life; and allows such reserves to be, for this purpose, placed under the jurisdiction of kaitiaki (wardens) amongst the tangata whenua.[24] The logical further step would be to extend the jurisdiction of the kaitiaki to overseeing all of the fish. (This means economising on some duties of the Director-General of Agriculture and Fisheries, which could bring a saving of public funds.) In effect, this would amount to declaring all New Zealand fisheries within the 200-mile exclusive economic zone to be, jointly and severally, mataitai reserves under management jurisdiction of the tangata whenua of each region.

Each tribal group or sub-group will appoint its kaitiaki, and there will need to be co-operation through hui on a pan-iwi scale. A plurality of different uses may then be recognised, in appropriate priority. First, customary local fishing for ceremonial needs (hui, tangi) and immediate subsistence. Second, recognising the special importance of the various species of fish and seafood in different regions, innumerable restaurants could be run by local hapu. There could be regional and seasonal variations, in any and every town along the rivers and coast. Does this constitute 'commerce', 'trade' or 'pecuniary gain'? That would be a moot point; but in the way I'm thinking of it, it still falls into the 'customary' category of good hospitality. Deliveries to other iwi for ceremonial needs are another matter again: these are koha, respecting the mana and vitality of the donors and hosts.

Through these activities, all New Zealanders – Maori and Pakeha/Tauiwi – should eat well. Then also, if we like (and in keeping with these tourist times), we can invite the foreigners – the Germans, Norwegians, Japanese, Koreans, those of the Americas, all those who would otherwise seek to buy commercial 'catch rights' and thus alienate the fish. They can come; there's enough space for them all. (Given the price of jet travel, there will still be lots of fish, when the 'demand' is localised in this way.) Snapper à la néozélandaise; Orange Roughy Moriori; Toheroa (when in season); World-Famous Bluff oysters; Kahawai fresh from the river mouth; Herbed Mussels; Paua Fritters (which are really rather nice); not to forget the succulence of Barbecued Trout.

Under such a regime, conservation goals could quite certainly be assured. The local communities will be self-policing: the threat of loss of tribal mana will

ensure that.[25] A rahui (interdiction) can be placed, short or long term, on any locality where depletion or algal bloom becomes a problem. And then, once these local needs are met, if there still seems to be a surplus, one might think (twice!) about the possibility of exports. Possibly at this point, it would be appropriate for the tribes to vest any surplus available for 'commercial' exploitation, in the Crown; it could perhaps be managed through an adaptation of the ITQ commercial catch scheme. (This would return a role, albeit limited, to the Director-General. The specification of the TACC – total allowable commercial catch – would remain under strict pan-iwi control, with advice from their fisheries scientists.) One can see lots of scope for 'value-added' here.

Managed this way, at the initiative of local communities whose vested interest is in the land and sea as a material place of life (not a disembodied source of profits), respect of ecological limits is more plausible; and the high prices obtained on the World Markets would constitute authentic resource rents. Of course the *common* interest will have to be zealously affirmed, in order to defend against 'piracy from within' – the temptation of disaffected and self-serving individuals to make a quick buck. As regards foreign boats, we have (or shortly will have) four super-modern frigates, and these could effectively be used to keep the high-waters pirates out. (No need for nuclear arms!) Perhaps it will be objected that we are not, thereby, feeding the world's poor? But the commercially caught fish are not feeding them today anyway, not even in New Zealand. And perhaps, if we established proper hospitality at home, here in New Zealand, we would have some chance of showing generosity abroad. We would not, at any rate, have to fear the hollow eyes of our ancestors' ghosts, or of the hungry people in our streets, or of our fish-starved children not yet born.

.... These we eat now
These for the tangi
These for seed
And these, e kare ma, are your
Kahawai.[26]

As far as the economics of it all is concerned, it is not a question of living better, but of living well.

NOTES

*Earlier versions of this paper were presented at the Symposium *Justice and the Environment: Common Property, Indigenous Rights, and Inequities of Access*, Department of Economics, University of Auckland, 17 June 1993; and at the Conference *Ecopolitics VII: Facing the Future*, Griffith University, Brisbane, Australia, 2-4 July 1993. Thanks in particular to Richard Dawson, Leith Duncan, Rosemary Arnoux and

Andy Dragun. John Proops and an anonymous referee helped the tone for the final version.

[1] From 'Trout' by Brian Turner (in O'Sullivan 1988: 358-359).
[2] The Maori people, now very much intermarried with the joys and troubles of a modern 'commodity economy', trace their tribal lineages to the great canoes that were sailed to these islands from Polynesia between 1500 and 500 years ago. Aotearoa is a Maori name meaning 'land of the long white cloud', given the voyagers from Polynesia when they sighted the shores of these isles. Traditionally Maori people have referred to each of the two main, and the many smaller islands, each by separate names. But Aotearoa has become, by common consent, a widely used 'indigenous' name for the New Zealand lands and nation.
[3] The phrase comes from the title of the report by the Fisheries Task Force (1992), *Sustainable Fisheries: Tiakina nga Taonga a Tangaroa.* A literal translation is: 'Looking after Tangaroa's Wealth' – Tangaroa in Maori tradition is god of the sea.
[4] A detailed appraisal of the working of the quota management system over the past ten years is made by Leith Duncan (1993); see also Sissenwine and Mace (1992). Achievement of efficiency and conservation goals would, at best, depend on an important paradox. The effectiveness of the ITQ system as a mechanism for conservation requires effective containment of 'self-interested' behaviour. Commercial fishing operators dependent on income from fish for their livelihood are necessarily preoccupied with profitability: an excess of revenues over costs. This means, first, pressures are put on the administrators (government politicians and bureaucrats) to set the quotas high. Second, in the highly competitive commercial fishing environment, they have a strong incentive to catch and sell wherever a profit is to be made, irrespective of legal restrictions. Quotas on specified species, and other limits intended to ensure equity and conservation goals (e.g. to reduce mortality of marine mammals), are constraints against which rationally they would push as hard as they can. It is 'rational' (in the economics textbook sense) to extract as much 'value' from the stock – mining it as a sort of ore – before it runs out or becomes unavailable to them. Legal barriers are disregarded with impunity: by commercial operators looking for an extra dollar; by non-licensed operators engaged in outright piracy; and (in implicit protest) by individuals and communities who feel they have been unfairly excluded from access to the resource in the first place. So, unless enforcement is very comprehensive (which is very costly, and requires active industry support to be effective), the situation retains something of an 'open-access' character. On the other hand, the lower the quotas are set (with conservation in mind) and the more effective enforcement measures are, the greater the pecuniary incentives for cheating and piracy. Private vice does not make public virtue: it's an attempt to square the circle.
[5] The cited passages are all from the Fisheries Task Force (1992: 11-18).
[6] This three-way demarcation of discrete interests/activities to be sustained, roughly parallels that found in the Resource Management Act (RMA 1991) with its objectives of simultaneous respect for Maori, commercial, and amenity values of the environment, as will be discussed later on.
[7] The term Pakeha (sometimes spelled Paakeha) denotes people of non-Maori descent, especially British/European. Its origin is obscure. The word maori (sometimes spelt maaori), means natural or ordinary, as in 'wai maori': natural (fresh) water. The inhabitants of Aotearoa in the 19th century came to call themselves Maori as being the people in their ordinary, natural place. The (mostly) European settlers, on the other hand,

were tauiwi: those who come from elsewhere. The Maori are also, as the 'indigenous' people and on a finer grain by tribal districts, the tangata whenua – from tangata (sometimes spelled taangata: a person or people) whenua (land, and also placenta) – meaning a person or people with ties by birth or possibly marriage to a specific place or region.

[8] Written documentation of the extent of 'traditional' Maori fishing is fragmented; however one study by New Zealand's arch-ethnographer Elsdon Best (1929) brings together a wealth of technical, ecological, and social detail.

[9] It is interesting to note that the Fishing Industry Board in 1993, protesting against proposals by the Crown to introduce tendering for catch quota as further species are brought under the quota system, argue with legal opinions to back their case, that past permit-based fishing activity (so-called catch-history) establishes a property right over the fish, and thus '…if the permits are revoked and the new access right (quota) is put up for tender, those permit holders who are excluded from the fishery as a result will be entitled to full compensation from the Crown for the confiscation of their property (access) right' (Fishing Industry Board 1993, p.11). They go on to add (ibid.): 'The proposal to ignore historical access rights in the allocation of a new access right also runs contrary to well established principles of international law.' The appeal to (English) common law, to (Maori) customary usage, and to (whose?) international law, is evidently a sword that might be made to cut several ways. What about the Maori excluded by force in the 19th century, or the 'part-timers' shown the door in 1985-6?

[10] See in particular O'Connor (1991). Some recent works that document Treaty issues in the context of resource management reform, and also the sidelining of the Treaty under British rule since 1840, include: Orange (1987), Kawharu (1989), Kelsey (1990), Temm (1990), Walker (1993), and the many reports of the Waitangi Tribunal.

[11] Matiu Rata, quoted in the Auckland-based daily newspaper, the *New Zealand Herald*, 15 May 1992, p.3.

[12] Henceforth referred to as the Fisheries Claims Act. For good discussions refer Dawson (1993) and Walker (1993). Further historical perspectives on the fishing issues are found in reports of the Waitangi Tribunal (1988, 1992), and papers by Bromley and Sharp (1991), and Cullen & Memon (1991).

[13] The citations come from Sections 8, 7, and 5, respectively, of the Resource Management Act. For more detailed discussions on the multiplicity of 'interests' enunciated in the Act, see also Arnoux, Dawson & O'Connor (1993), and O'Connor (1993b).

[14] In its construction the word is: kai (person who does something) tiaki (look after, act as guardian) tanga (abstract suffix); so 'guardianship'. A person is kaitiaki (warden, guardian) when charged with the particular responsibility of looking after anything.

[15] The Maori, in former times, showed respect for the mana (authority, standing, prestige, personal power) of opposing warriors, by ritual cannibalism in times of warfare. For an analysis of this as a gesture of 'symbolic exchange' (following Baudrillard 1976), see O'Connor (1991, 1993a).

[16] Death, as the singular point we cannot gaze beyond, is the symbol of all other unknowabilities of a life trajectory; such points of loss or transition may, therefore, often be spoken of as moments of death-and-rebirth. The risk of death carried by the stranger may be obvious and banal – such as murder or betrayal of the host's trust, or transmittal of a fatal disease. Or it may be the more subtle fatality of becoming entangled by bonds of friendship or obligation with the dangers of the other. Instrumental reason, attemptedly placing the world in the service of self, is profoundly xenophobic. *Xenos*, a Greek word,

means the unknown, and so stands for the strange or the stranger. To live the world as *xenos* would express, therefore, a sense of being in the presence of the other, an unknown quantity, a mystery. This unknowable world hosts us; and we are hosts to it (the mystery is also within us). In ancient Greek also, *xenios* is the word for host, the one who received the stranger. It is not just an etymological accident that, even in the Occidental past, hospitality is linked with the unknown.

[17] On these themes of power versus hospitality, see Arnoux, Dawson & O'Connor (1993), and O'Connor (1993b). One might note that 'falling in love' is an irrational and incalculable event par excellence, and (thinking back to the 'lure' that the fish can't resist) quite the opposite of the Cassanova-style sexual 'conquest'.

[18] From 'Te Kooti' by Haare Williams, in *Karanga* (no date: 25).

[19] Tane and Tangaroa are, in turn, both children of Rangi and Papa, who are father-sky and mother-earth respectively. I am grateful to Terry Lynch for this formulation.

[20] In short, in this way of understanding the ethics and existential realities of *co*-existence, we are all each other's doing, each other's undoing, and the conditions of each other's fulfilment and redemption. This is obviously very far removed from more-market society, with its precept of contract in mutual (sovereign) isolation. The systematic exploration of this theme would take us too far afield.

[21] From 'Koha' by Haare Williams, in *Karanga* (no date: 6); Koha is explained by Williams as 'the principle of giving'.

[22] In Maori this appears as a case of utu: the payment or return – redress, counter-gift, retribution – appropriate to the act or situation. In many non-industrial cultures, there is an assertion of a reciprocity that encompasses all life, human and non-human, the gods, the land, everything. As such, there is no bar drawn between humanity and the 'natural world.' The 'exchanges' (gifts and counter gifts, duels, romances, etc.) that take place between human and non-human are not envisaged as subordinated to the particular service of human interests, and nor is it felt that they should be. Humans live in nature, not on nature. As Jean Baudrillard puts it (1976: 207), 'the symbolic exchange ceases nowhere, neither amongst the living nor with the dead (nor with stones nor with the animal kingdom). It is an absolute law: obligation and reciprocity are inexorable.'

[23] An archaic Maori proverb; this is a free translation. More literally, perhaps: 'Give as you receive, and all is well.'

[24] See also Section 37 of the Fisheries Claims Act, providing for 'fish taken … for hui, tangi, or non-commercial fishing use'. A hui is any meeting (usually at a marae, meeting house); a tangi is the mourning and funeral when someone dies.

[25] What is crucial here is that under this regime of *common property* (or, more exactly, wealth-in-common), the fish are not 'commodified' and people have, collectively, a certainty of access. By removing the insecurity about present and future access, one removes the main psychological pressures towards privately 'owning' fish. Rather, one is freed to enjoy, share, and pass on to others the abundance of life. This contrasts with strategies of privatisation (and, usually, resultant corporatisation) which, far from giving incentive to conserve, throw the 'owners' (be they Maori or any other) naked into the arena of market forces and the imperative of 'realising the value' in the marketplace of their stock of 'natural capital'. On the likelihood of corporatisation leading to non-sustainable exploitation, see O'Connor (1993c, pp.25-32).

[26] The kahawai (a widely caught inshore fish) here replace the kumara (Polynesian sweet potato) in the original poem 'Kumara' by Haare Williams, in *Karanga* (no date: 29); e kare ma is a term of endearment.

REFERENCES

Annala, J.H. (Editor) 1993. *Draft Reports from the Fishery Assessment Working Groups, February-March 1993*. Wellington, MAF Fisheries (Greta Point), April 1993.

Arnoux, Rosemary, Richard Dawson and Martin O'Connor 1993. 'Logics of Death and Sacrifice in the Resource Management Law Reforms of Aotearoa/New Zealand', *Journal of Economic Issues* **27** (December 1993).

Baudrillard, Jean 1976. *L'Echange Symbolique et la Mort*. Paris, Gallimard.

Best, Elsdon 1929. *Fishing Methods and Devices of the Maori,* Dominion Museum Bulletin No.12. Wellington, Government Printer. Reprinted 1977.

Bromley, Daniel and Basil Sharp 1991. 'Maori Fishing Rights and the Crown: An Institutional Perspective', pp.59-76 in: Jan Whitwell & Mary Anne Thompson (Editors), *Society and Culture: Economic Perspectives*, Volume I (Proceedings of the New Zealand Association of Economists 1990 Sesquicentennial Conference). Wellington, New Zealand Association of Economists.

Cronin, Karen 1988. 'The Intrinsic Value of Ecosystems', paper prepared for the RMLR Core Group, Ministry for the Environment, November 1988.

Cullen, R. and P.A. Memon 1991. 'New Zealand Fisheries Policy and Maori', pp.77-89 in: Jan Whitwell & Mary Anne Thompson (Editors), *Society and Culture: Economic Perspectives*, Volume I (Proceedings of the New Zealand Association of Economists 1990 Sesquicentennial Conference). Wellington, New Zealand Association of Economists.

Dawson, Richard 1993. 'The Fisheries Claims Act and John R. Commons' Reasonable Value', *Policy Discussion Papers No.14*. Department of Economics, University of Auckland, February 1993.

Duncan, Leith 1993. 'ITQs in New Zealand: A Critical Appraisal', in *Justice and the Environment: June 17 1993 Symposium Proceedings*, Department of Economics, University of Auckland, January 1994.

Fisheries Claims Act 1992. *Treaty of Waitangi (Fisheries Claims) Settlement Act* 1992 No.121, 14 December 1992. Wellington, House of Representatives.

Fishing Industry Board 1993. *Fishing Industry Response to Minister of Fisheries: Critique of Government Policy to Tender Fisheries Rights and Other Policy Directions.* Wellington, Fishing Industry Board, 25 January 1993.

Fisheries Task Force 1992. *Sustainable Fisheries: Tiakina nga Taonga a Tangaroa*, Report of the Fisheries Task Force to the Ministry of Fisheries on the Review of Fisheries Legislation. Wellington, April 1992.

Hegel, G.W.F. 1807. *Phenomenology of Spirit*. German original 1807; English translation by A.V. Miller: Oxford, Clarendon Press, 1977.

Hyde, Lewis 1983. *The Gift: Imagination and the Erotic Life of Property*, Vintage/ Random House.

Kawharu, Sir Hugh (Editor) 1989. *Waitangi: Maori and Pakeha Perspectives on the Treaty of Waitangi*. Auckland, Oxford University Press.

Kelsey, Jane 1990. *A Question of Honour? Labour and the Treaty 1984-1989.* Wellington, Allen & Unwin.

Marsden, M. & T.A. Henare 1992. 'Kaitiakitanga: A Definitive Introduction to the Holistic World View of the Maori', unpublished, November 1992.

O'Connor, Martin 1991. 'Honour the Treaty? Property Right and Symbolic Exchange', pp.138-179 in: Jan Whitwell & Mary Anne Thompson (Editors), *Society and Culture: Economic Perspectives*, Volume I (Proceedings of the New Zealand Association of Economists 1990 Sesquicentennial Conference). Wellington, New Zealand Association of Economists.

O'Connor, Martin 1993a. 'The Passage from Magic to Folklore: Death, Magic and the Mana Maori in Aotearoa/New Zealand', pp.71-96 in Sylvie André (Editor), *Magie et Fantastique dans le Pacifique* (papers from the Colloque International, Université Française du Pacifique, Tahiti, June 1993), Editions Haere Po No Tahiti, Papeete, 1993.

O'Connor, Martin 1993b. 'Diverse Motifs of Terror and Love in the New Zealand Resource Management Law Reform', paper presented to the Conference on *Post-Colonial Formations* at Griffith University, Brisbane, Australia, July 7-10 1993.

O'Connor, Martin 1993c. 'On the Misadventures of Capitalist Nature', *Capitalism Nature Socialism4(3)* No.15 (September 1993): 7-40.

Orange, Claudia 1987. *The Treaty of Waitangi.* Wellington, Allen & Unwin.

O'Sullivan, Vincent (Editor) 1988. *An Anthology of Twentieth Century New Zealand Poetry*. Auckland, Oxford University Press 3rd edition.

Review Group 1991. *Report on the Resource Management Bill*, prepared for the Minister for the Environment by Anthony Randerson (Chairman), Prue Crosson, Guy Salmon, Ken Tremaine, and Brent Wheeler. Wellington, 11 February 1991.

RMA 1991. *The Resource Management Act: An Act to restate and reform the law relating to the use of land, air, and water*, 1991 No.69, 22 July 1991. Wellington, New Zealand House of Representatives.

Sissenwine, Michael P. and Pamela M. Mace 1992. 'ITQs in New Zealand: The era of fixed quotas in perpetuity', *U.S. Fisheries Bulletin 90(1)*:147-160.

Temm, Paul 1990. *The Waitangi Tribunal: The conscience of the nation.* Auckland, Random Century.

Waitangi Tribunal (WAI 22) 1988. *Report of the Waitangi Tribunal on the Muriwhenua Fishing Claim.* Wellington, Department of Justice, June 1988.

Waitangi Tribunal (WAI 27a) 1991. *The Ngai Tahu Report*. Wellington, in three volumes, Waitangi Tribunal Report 3/4 WTR (new integrated numbering system), published by Brooker & Friend, February 1991.

Waitangi Tribunal (WAI 27b) 1992. *The Ngai Tahu Sea Fisheries Report*. Wellington, Waitangi Tribunal Report 5 WTR (new integrated numbering system), published by Brooker & Friend, August 1992.

Walker, Ranginui. 'Tradition and Change in Maori Leadership'. Inaugural Lecture (Chair in Maori Studies), University of Auckland, July 1993.

Williams, Harre (no date). *Karanga*. Coromandel Press, New Zealand.